

EXHIBIT C

Transcript of Walker County Civil Service Board Hearing dated 7/12/04

1 CIVIL SERVICE BOARD

2 OF WALKER COUNTY

3 GRIEVANCE HEARING

4 JULY 12, 2004

5 REGARDING TAZ DAY BURCH

6 A.K.A. TOMMY BARRON

7

8 HEARING BEFORE

9 CHARLES STEPHENS, SR.

10

11 APPEARANCES

12 REPRESENTING THE HIRING AUTHORITY:

13 HANK WILEY

14 GARY WILLFORD

15 REPRESENTING THE GRIEVANT:

16 ANTHONY J. PIAZZA

17 BOARD MEMBERS:

18 ANDREW ARCHIE, Chairman

19 DAVID KELLY

20 RUFUS REED

21 MORRIS STUDDARD, JR.

22 DOYLE CUMMINGS

23

24 SHARON TUCKER, CLERK

25

1 REPORTED BY: Rhonda G. Woods
2 Certificate No. AL-CSR-228

3
4 I N D E X

		<u>PAGE</u>
6	WITNESSES:	
7	DERANE INGLE	
8	Direct by Mr. Piazza	5, 57
9	Cross by Mr. Willford	56
10	STEVEN ALLEN THOMAS	
11	Direct by Mr. Piazza	72
12	Cross by Mr. Willford	75
13		
14	CERTIFICATE	76
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

1 THE COURT: The Civil Service Board is
2 convened for the purpose of hearing the complaint of Taz
3 D. Burch that was filed and submitted to the Walker
4 County Civil Service Board by written complaint on March
5 12, 2004.

6 Mr. Burch is present and represented by Mr.
7 Anthony Piazza. And the hiring authority, Honorable
8 John Mark Tirey is here represented by the Honorable
9 Hank Wiley and Gary Willford.

10 We'll go ahead and proceed. I notice we
11 have a number of witnesses in the courtroom. Have the
12 parties been able to check the subpoena list to be sure
13 that all persons are present that's been subpoenaed?

14 MR. PIAZZA: Do you mind if I take roll?

15 THE COURT: Be happy for you to.

16 (Mr. Piazza calling roll.)

17 MR. WILLFORD: We're satisfied.

18 THE COURT: We'll go ahead and proceed.

19 Mr. Piazza, for your information and benefit, we will
20 handle this on somewhat an informal basis. The Civil
21 Service Board is sitting there. They'll hear the case.
22 They'll make a determination based on the facts
23 presented here tonight.

24 We will proceed, allowing you to -- we don't
25 have plaintiffs and defendants by designation in our

1 process but you would actually be taking the place as a
2 plaintiff since your client has filed the complaint.
3 And then the Sheriff and his representative will
4 respond. You'll have an opportunity to cross-examine
5 witnesses and really handle it just like a regular case
6 in court, which will be the procedure that you're
7 familiar with.

8 With that let's go ahead and everybody
9 that's here that anticipates serving as a witness, let
10 me put you under oath at one time. If you'll stand and
11 raise your right hand.

12 (Witnesses sworn by the Judge.)

13 THE COURT: Does anybody want the Rule?

14 MR. PIAZZA: Yes, I would. And I would also
15 like to ask if Derane Ingle is here, is he present?

16 MR. WILLFORD: He's present.

17 THE COURT: All right. Who is going to be
18 your first witness?

19 MR. PIAZZA: Derane Ingle.

20 MR. WILLFORD: As the complainant has
21 invoked the Rule, I believe his witnesses need to step
22 out.

23 THE COURT: We're going to get rid of all
24 of them except Mr. Ingle. Where is Mr. Ingle?

25 MR. WILLFORD: Mr. Ingle is here.

1 THE COURT: Everyone other than Mr. Ingle,
2 if you will, just wait outside and we will call you as
3 we need you.

4 Mr. Ingle, just for proper identification,
5 if you will, identify yourself, please.

6 MR. INGLE: Derane Ingle.

7 THE COURT: Mr. Piazza.

8 DERANE INGLE

9 called on behalf of the grievant, having been
10 duly sworn, was examined and testified as follows:

11 DIRECT EXAMINATION

12 BY MR. PIAZZA:

13 Q. And you're currently employed by Walker
14 County?

15 A. Yes, sir.

16 Q. As deputy sheriff.

17 A. Yes, sir.

18 Q. And how long have you been employed?

19 A. With Walker County Sheriff's Office since
20 October of last year.

21 Q. 2003?

22 A. Yes, sir.

23 Q. And who is your immediate supervisor?

24 A. Carey Scruggs.

25 Q. Can you spell that, please?

1 A. C-a-r-e-y, Scruggs, S-c-r-u-g-g-s.

2 Q. What is his or her title?

3 A. His title is chief deputy.

4 Q. Chief deputy?

5 A. Yes, sir.

6 Q. And who does he answer to?

7 A. Sheriff John Mark Tirey.

8 Q. Tirey?

9 A. Yes, sir.

10 Q. When did you first apply to Walker County to
11 be a deputy sheriff?

12 A. I don't remember the date. I done the test
13 and the paper but I don't know what day it was.

14 BOARD MEMBER REED: Charlie, we ask if he
15 would speak up just a little bit. I can't hear.

16 THE COURT: Derane, if you will speak up
17 because this body over here is going to be making the
18 final decision, so they need to hear what you're saying.

19 Q. Who did you interview with when you
20 originally applied, do you recall?

21 A. Sheriff Tirey and Carey Scruggs.

22 Q. Tirey and Scruggs?

23 A. Yes, sir.

24 Q. Do you recall when that was?

25 A. I done my PT and my run and everything

1 about, I guess, two or three weeks before they hired me,
2 before I started.

3 Q. So you had to meet certain physical
4 qualifications?

5 A. Yes, sir.

6 Q. And did you meet those physical
7 qualifications?

8 A. Yes, sir.

9 Q. I assume there was a physical fitness test?

10 A. Yes, sir.

11 Q. What else was there?

12 A. Agility course.

13 Q. Agility?

14 A. Yes, sir.

15 Q. Anything else?

16 A. None that I can think of.

17 Q. Was there a written application that you
18 filled out?

19 A. Yes, sir.

20 Q. Was there any type of a written exam or an
21 electronic exam?

22 A. Yes, written.

23 Q. Written exam?

24 A. Yes, sir.

25 Q. Did you complete that?

1 A. Yes, sir.

2 Q. Do you recall the score you made on that?

3 A. I don't believe they give a score, just fail
4 or pass.

5 Q. So you passed that?

6 A. Yes, sir.

7 Q. Did you have to -- were you required to
8 submit any documents other than your written
9 application?

10 A. On my certificates I have, my
11 certifications.

12 Q. Certifications?

13 A. Yes, sir.

14 Q. We'll get into those. And did you, in fact,
15 submit those certifications?

16 A. Yes, sir.

17 Q. Do you recall on the written application if
18 there was a question concerning a background check?

19 A. Was there a question about a background
20 check?

21 MR. WILLFORD: Let me interject here for
22 just a minute. This is starting to sound like a
23 deposition, and I know we're wide open here, but I
24 believe the allegations that are against the deputy
25 are whether or not he engaged in any kind of

1 excessive force against the complainant, and I fail
2 to understand the relevancy of all these
3 deposition-like questions about the application,
4 and we'll stipulate for the record that he was
5 hired as a deputy sheriff at the time of the
6 incident.

7 MR. PIAZZA: I think the question before the
8 Board, and forgive me if I'm incorrect, but I think
9 the question before the Board is whether this
10 gentleman deserves to maintain his job or to keep
11 his employment with the county. I think that's the
12 central issue. There has been an allegation by my
13 client that there was excessive abuse and treatment
14 of him as a prisoner; however, that doesn't exclude
15 any other reasons that the Board may find that he
16 could be excused as an employee, and my questioning
17 concerns that other aspect.

18 THE COURT: Mr. Piazza, I can understand
19 your --

20 MR. PIAZZA: In fact, I'm trying to lay a
21 background for that.

22 THE COURT: Let me help you a little bit,
23 and this is Charlie Stephens, the attorney for the
24 Board. Mr. Ingle would have made application to
25 this body, the Civil Service Board, for employment.

1 All the employees are hired through the Civil
2 Service Board. He would have make his application
3 to this Board. He would have taken the exam that
4 he's referred to, which was given by this Board,
5 graded by this Board, and the qualifications for
6 this position has been checked by the Civil Service
7 Board, so he was qualified for employment. I think
8 the Board could find that as a matter of judicial
9 notice, for lack of a better term.

10 They have certainly certified his
11 qualifications and submitted his name to the
12 Sheriff as an eligible employee for that position
13 after having been tested and examined. So if that
14 helps you any, I don't know if it does or not, I
15 was assuming you were going through for the
16 qualification aspect of it, but he is qualified. I
17 think the Board will take judicial notice of that.

18 MR. PIAZZA: Well, my only other question in
19 that particular vein would be was there a question
20 concerning his criminal background?

21 THE COURT: Okay. You can ask him if he
22 knows. Go ahead.

23 Q. Was there such a question on your
24 application to the county concerning any criminal record
25 or background that you may have had?

1 A. It asked you if you had been arrested
2 before.

3 Q. Have you ever been arrested?

4 A. No.

5 Q. You've never been arrested?

6 A. No, sir.

7 Q. You've never been convicted of a crime?

8 A. Never had a speeding ticket.

9 Q. Never had a speeding ticket. I'm assuming
10 you responded negatively to that particular question; is
11 that correct?

12 A. (Witness nods head.)

13 Q. Now, having gotten that out of the way, how
14 long have you known the complainant, Taz Burch?

15 A. I've known Tommy for probably 10 or 12
16 years, something like that.

17 Q. And when did you make his acquaintance?

18 A. It would have been after I worked at Carbon
19 Hill, the City of Carbon Hill.

20 Q. And forgive me if I lead a little bit. Were
21 you the chief of police at Carbon Hill?

22 A. Yes, sir, for a period of time.

23 Q. Okay.

24 A. But when I first begun to know him I wasn't
25 the chief of police. I started out as a dispatcher.

1 Q. Dispatcher?

2 A. Yes.

3 Q. When did you go to work for Carbon Hill?

4 A. I believe I started dispatching with them in
5 '93, and I worked for them for a while and I quit and I
6 went back. I was a part-time patrolman and then I went
7 full-time patrolman and then I went to assistant chief.
8 I was assistant chief job for several, several years and
9 then I was chief of police for almost two years, I
10 guess. Close to two years.

11 Q. Was that the last two years prior to your
12 being employed by the county?

13 A. I worked about a year in Oakman.

14 Q. Oakman?

15 A. Yes, sir, City of Oakman.

16 Q. What was your position there?

17 A. I was patrolman.

18 Q. Why did you leave the City of Oakman?

19 A. I took a job with the Sheriff's Office.

20 Q. Why did you leave the chief of police
21 position at Carbon Hill?

22 A. I got sick and the working conditions.

23 Q. Excuse me?

24 A. I was sick. I got sick and the working
25 conditions.

1 Q. The working conditions?

2 A. Uh-huh.

3 Q. What -- can you be more descriptive, please?

4 A. As far as the working conditions?

5 Q. And also your illness.

6 A. Stress bothered me and the mayor tried to
7 get me to do some things that wasn't right and I let it
8 make me sick.

9 Q. The mayor, who was that at the time?

10 A. James Richardson.

11 Q. What was he trying to get you to do?

12 MR. WILLFORD: Again, I don't see the
13 relevance of this.

14 THE COURT: Unless it's going to help us
15 somehow, Mr. Piazza, we -- how is that going to
16 help us?

17 MR. PIAZZA: Well, Mr. Stephens, what I'm
18 trying to determine, and I may have to go another
19 way with this --

20 THE COURT: Yes. I'm going to sustain his
21 objection as to that.

22 Q. So, during the time that you've known Mr.
23 Burch, how many times have you arrested him if you
24 recall?

25 A. At Carbon Hill or altogether?

1 Q. Let's start with Carbon Hill.

2 A. Three times. One of them would have
3 probably been on a warrant.

4 Q. And the other two?

5 A. Public intoxication, unlawful possession of
6 prohibited beverage, and then another unlawful
7 possession of prohibited beverage.

8 Q. That's three occasions in Carbon Hill. Any
9 other times that you've arrested Mr. Burch?

10 A. The only two I have a recollection of at
11 this time.

12 Q. What about when you were at Oakman?

13 A. No, sir.

14 Q. You didn't arrest him while you were there?

15 A. No, sir.

16 Q. Now, in your dealings with Mr. Burch, tell
17 me what you know about Mr. Burch, about his physical
18 condition.

19 A. About every time I've ever had any dealings
20 with him it was either because him complaining about
21 something that --

22 Q. I'm not asking you that. I'm asking you
23 what your knowledge is about his physical condition.
24 This is a man that you've known for 10 or 12 years.

25 A. I don't understand. I don't understand what

1 you want me to tell you.

2 Q. Do you understand him to be a normal,
3 healthy, walking, individual or do you know him to have
4 physical health problem?

5 A. I know he has some problems with one arm.

6 Q. What -- how would you describe that problem?

7 A. He's got a big scar on it.

8 Q. Is that it? Do you know if he can use that
9 arm?

10 A. I mean, my extent of knowing him -- well,
11 somewhat personal but not an extent of knowing what his
12 physical capabilities would be, no, sir.

13 Q. Do you know if he has use of that arm?

14 A. I've seen him use the arm if that's what
15 you're asking me.

16 Q. When did you notice he had a scar on that
17 arm?

18 A. I guess the first time I ever seen him. I
19 mean, it's obvious. You can see it.

20 Q. Is it his right or left arm?

21 A. It would be his right arm.

22 Q. Does he have any other physical impairments?

23 A. I don't know.

24 Q. Do you know whether or not -- do you know or
25 can testify as to his mental condition?

1 A. No, sir.

2 Q. Have you ever known him to have a mental
3 condition?

4 A. No, sir, I mean I --

5 Q. When I say "mental condition," I'm referring
6 to a mental disease or illness.

7 A. I don't know. I don't know whether he does
8 or not, no, sir.

9 Q. Have you ever known him to take medication?

10 A. Other than what he's told me?

11 Q. What has he told you about his medication?

12 A. He called me up to his house one day, was at
13 Carbon Hill, he told me that he was on a lot of
14 medication. Of course, I don't remember the reason he
15 called for us to come up there. We used to sit and
16 talk. There was times he would call. He would have a
17 problem and we would go up there and then Tommy would
18 talk. Because I played music and he played music, he
19 wanted us to get together and play music. That would be
20 the most part about knowing anything about his medical
21 history. I'm no doctor so I can't testify to what he's
22 on or what his capabilities are.

23 Q. Well, I mean did he -- does he appear to
24 be -- let me rephrase that question.

25 Have you ever known him not to conduct

1 himself in a normal fashion?

2 A. As in intoxicated wise? What does that
3 mean?

4 Q. If intoxication would be the way that you
5 would describe it, then describe it. Have you ever seen
6 him intoxicated?

7 A. Yes, sir.

8 Q. Have you ever seen him acting abnormally
9 without being intoxicated?

10 A. I wouldn't say that. I wouldn't know -- him
11 act abnormal without being intoxicated, no. There's
12 been times that I've been to his house and he's been
13 intoxicated but he's not act as bad as he had at other
14 times. When I -- from the time I put him in jail, when
15 I first had an encounter with him is nothing the way
16 that he acted, you know, when I put him in jail the last
17 time. Very irate. Not as if it was when I had -- maybe
18 had first dealings with him.

19 Q. You were the chief of police in Carbon
20 Hill. You arrested him three times; is that correct?

21 A. When I was chief of police, I don't believe
22 I ever arrested him.

23 Q. Was this while you were a patrolman --

24 A. I arrested him for a --

25 Q. -- or assistant chief?

1 A. Once I was a patrolman, I might have been
2 part -- I was patrolman at that time. I arrested him on
3 a -- I believe that would have been a warrant. A
4 warrant was signed on him because he kept calling the
5 dispatcher and cussing them at Carbon Hill, so the
6 magistrate issued a warrant on him and he was arrested
7 for that. The other two times would have been the time
8 that I was assistant chief.

9 Q. What were those two times for?

10 A. Public intoxication and unlawful possession
11 and then, again, for unlawful possession.

12 Q. And at any time did you have an occasion to
13 incarcerate him in the facility there at Carbon Hill?

14 A. All of those would have been Carbon Hill.

15 Q. At any time did you search his person to see
16 if he had medications or drugs, any type of --

17 A. Put somebody in jail, yes.

18 Q. And did you ever determine that he did have
19 medications on his person?

20 A. I don't recall that.

21 Q. Did he ever request medications from you
22 while he was incarcerated in Carbon Hill?

23 A. He wouldn't have requested them from me,
24 because I wouldn't have been the one. After I take him
25 to jail, I don't handle him no more. It would be the

1 dispatcher or the jailer.

2 Q. So it's your testimony that you wouldn't
3 have any knowledge of his medications?

4 A. He didn't ask me for no medications. I
5 mean, I would have no reason for him to ask me because I
6 don't work in the jail.

7 Q. In your discussions with people who work at
8 the jail, do you have any knowledge from your
9 discussions with him that he required medications?

10 A. No, sir.

11 Q. Or that he required physical or bodily or
12 mental treatment?

13 A. On the booking sheet --

14 Q. Can I ask what you're looking for?

15 A. His booking sheet where he's made calls from
16 911, it was either transferred over to the Sheriff's
17 Office or whether he called the Sheriff's Office about
18 something. You want me to tell you what they were?

19 Q. Right now I would like to know about any
20 treatment that he received.

21 A. On the booking sheet it says medical needs
22 and it says physician, Dr. Camp. It don't say nothing
23 about his medicines. It says problems or concerns, he's
24 had a heart attack, a collapse lung, and he has
25 breathing problems.

1 Q. Heart attack, collapse lung, and breathing
2 problems?

3 A. Yes.

4 Q. What's the date of that?

5 A. It doesn't have a date on here.

6 Q. Which arrest was that, does it say?

7 A. No, sir. No. It's just a booking sheet is
8 all it is.

9 Q. Can I see that?

10 A. (Witness complies.)

11 MR. PIAZZA: Is it possible that we could
12 have these documents entered into the record
13 here, documents that he's brought to court?

14 THE COURT: That he's been referring to?

15 MR. PIAZZA: Yes.

16 THE COURT: Any objection? He's been
17 referring to them.

18 MR. WILLFORD: No.

19 Q. You said you arrested him three times while
20 you were at Carbon Hill. Have you arrested him other
21 times other than the time that we're here on this
22 evening?

23 A. No, sir, none that I recall.

24 Q. So you've only arrested this gentleman four
25 times?

1 A. Seems like when he was arrested on one of
2 these times here he had some marijuana on him, but it's
3 not on his --

4 Q. I didn't ask you that. Well, I mean, that
5 you didn't make the arrest --

6 A. On the marijuana?

7 Q. -- is what you're saying?

8 A. Nuh-uh.

9 Q. So you did make --

10 A. But it's not on the booking sheet so --

11 THE DEFENDANT: I've never smoked pot and
12 never had none on me.

13 Q. So it's your testimony then, without it
14 being documented with these records, that you've
15 arrested this man for -- what was the charge
16 specifically regarding the marijuana?

17 A. It's not on this booking sheet. The only
18 way I would know is if I subpoenaed Carbon Hill's
19 records and seen if it was in his file somewhere. I
20 couldn't tell you -- I don't -- I just have to -- we
21 would have to subpoena the records.

22 Q. Are you just recalling this from memory?

23 A. No, because it's not on here and I don't
24 really -- we'd have to subpoena the records to be able
25 to know.

1 Q. So it's your testimony that there's never
2 been an arrest for marijuana? From your recollection
3 only that you recall without going to the records.

4 A. There should have been one on here
5 because --

6 THE COURT: His question to you is do you
7 have any independent recollection of arresting him
8 for possession of marijuana, whether it's on these
9 records or not. Do you have any independent
10 recollection of having arrested him for marijuana?

11 THE WITNESS: Do I remember doing it?

12 THE COURT: Yes.

13 A. When I put him in jail when I charged him
14 with a P.I., he was actually driving a vehicle. I mean
15 I remember that. I remember that. But I charged him
16 with P.I. because -- to keep him from losing his
17 license. It was unlawful possession of prohibited
18 beverage, and they should have been, if I ain't
19 mistaken, but to verify, I would have to subpoena the
20 records at Carbon Hill to verify that to be the facts.
21 No, I don't know for a fact. I couldn't tell you that
22 for a fact without subpoenaing the records.

23 Q. So you don't have any independent
24 recollection you can tell this Court about marijuana
25 possession that he was ever charged with --

1 A. I would have to subpoena the record.

2 Q. -- or ever found on his person?

3 A. I would have to subpoena records before I
4 could tell you that for sure.

5 Q. During the three arrests that we talked
6 about, has he ever been noncooperative with you as the
7 arresting officer?

8 A. I don't believe so.

9 Q. So he's always cooperated with you when
10 you've arrested him?

11 A. The best of my knowledge on those, yes, sir.

12 Q. Has he been -- do you know of any -- do you
13 have any knowledge of him being uncooperative with any
14 other police officers or law enforcement officials while
15 he was in their custody?

16 A. In custody, no.

17 Q. After an arrest, or after an arrest?

18 A. Not during, no, not arrest. He wasn't
19 arrested on that one.

20 Q. Would you characterize Mr. Burch as a fairly
21 peaceful individual that likes to drink and he gets
22 caught being drunk occasionally?

23 A. I don't know how you would characterize it.
24 Normally it would be his neighbors that would complain
25 on him if there was a complaint. Those two times I

1 arrested him would have been -- would have had to have
2 been not at residence for him to be charged with those
3 charges.

4 Q. Well, getting back to these charges, were
5 these for infractions or violations that were committed
6 in your presence? I know that you said one was by
7 virtue of a warrant, but wasn't the other two committed
8 in your presence?

9 A. For me to make the case, yes, sir, they had
10 to have been.

11 Q. And how did it come upon you to be at the
12 time and place where this man was at the time of the
13 violation?

14 A. I don't know that. It would have been while
15 I would have been patrolling I'm sure.

16 Q. Do you have any recollection of how the
17 public intoxication charge came about?

18 A. No, sir. All I have is a booking sheet. I
19 don't have his arrest report on that.

20 Q. Did you make an arrest report?

21 A. Yes, sir. If he's been booked in jail,
22 there would be one, yes, sir.

23 Q. What about the possession charge?

24 A. Alcohol, yes, sir. There would have been an
25 arrest report on any charge that he had been --

1 Q. How did you come to be in the particular
2 place where this -- was this made at the same time the
3 two charges -- was this for one arrest or two separate
4 occasions?

5 A. Yes, sir, two of them was right there what
6 you've got down and then he has another unlawful
7 possession of beer.

8 Q. So there is a third one of unlawful
9 possession?

10 A. On one arrest he was charged with P.I., yes,
11 sir, and then he was charged with beer on the next --
12 another one.

13 Q. And how did you come to be in the location
14 where Mr. Burch was, or as you know him, Mr. Barron, how
15 did you come to be in that location at the particular
16 time that these violations were going on?

17 A. I wouldn't know how to answer. I mean other
18 than patrolling, I couldn't tell you. I don't have the
19 arrest reports. I mean, I don't know -- I don't know
20 how to answer other than what I -- I don't know anything
21 else to tell you. I would have to look at the arrest
22 report to see why or where I arrested him. I wouldn't
23 remember where it could have been.

24 Q. So you don't recall any circumstances
25 surrounding these arrests?

1 A. No.

2 Q. Regarding the arrest that we're here on this
3 evening, which occurred, correct me if I'm wrong,
4 February 16.

5 A. Yes, sir.

6 Q. Is that correct?

7 A. Yes, sir.

8 Q. What evening -- what day of the week was
9 that?

10 A. Monday, I believe.

11 Q. Tell me what you recall about that
12 particular arrest.

13 A. Do you want me to start from the beginning?

14 Q. Yes, sir.

15 A. I was dispatched out. Dispatch give me the
16 call that Mr. Barron called.

17 Q. What time was that? Excuse me for
18 interrupting. I may interrupt you because I want -- I
19 would like to know --

20 A. I don't know. It come through 911, so I
21 don't know what time it would have been. Mr. Barron
22 has --

23 THE COURT: Let me help the record here.

24 We're referring to the complainant as Mr. Burch and
25 then you're referring to him as Mr. Barron. Is Taz

1 Burch and Tommy -- or Taz Burch and Tommy Burton
2 (sic) one and the same person?

3 MR. PIAZZA: Barron.

4 THE COURT: Tommy Barron.

5 MR. PIAZZA: He's formerly known as Tommy
6 Barron. He went through a formal change of name
7 process.

8 THE DEFENDANT: I changed my name February
9 the 6th.

10 THE COURT: I just wanted to clear that up
11 for the record because it could be confusing later
12 on.

13 MR. PIAZZA: I was going to clear that up
14 with him.

15 Q. What shift were you working on the evening
16 of February 16?

17 A. Midnight.

18 Q. Midnight?

19 A. 12:00 to 8:00.

20 Q. And what time after you got your -- after
21 you got notified of the dispatcher's 911 call, what time
22 did you arrive at Mr. Burch's residence?

23 A. I got at his house at 1:51 a.m.

24 Q. Was that on the 17th?

25 A. The 16th.

1 Q. That would have been the 16th?

2 A. Yes, sir.

3 Q. And what information did you have as a
4 result of the dispatchers notifying you of the call,
5 what information did you have prior to your going to
6 their residence?

7 A. Dispatch give it to me that he had a
8 combative wife, unwanted guest, and he wanted her
9 removed.

10 Q. Combative wife, unwanted guest?

11 A. Yes, sir.

12 Q. And Mr. Burch was the one that made the
13 call?

14 A. Yes, sir, from what dispatch --

15 Q. Did it say what time the call came in?

16 A. No, sir. I don't have that, no, sir.

17 Q. And when you arrived at the residence, what
18 did you find?

19 A. When I pulled up Ms. -- I know her as Ms.
20 Wilkerson so I may refer to her as Ms. Wilkerson -- but
21 Ms. Barron came outside and told me everything was
22 okay. I asked her what was going on, and she told me
23 that Tommy had been drinking all day and he was drunk
24 and he had got mad. So I said, "Well, let me talk to
25 him." She said, "Well, he's in the bed." I said,

1 "Well, I need to talk to him because he made the call
2 and make sure everything is all right." Well, we
3 stepped in the door. There was food in the floor, and I
4 asked her what had happened. She said he got mad and
5 threw his food in the floor and started cussing her.

6 So, Tommy come from the -- well, he first said, "What in
7 the h-e-l-l is going on?" And Ms. Barron was talking --

8 Q. Let me interrupt you for a second and back
9 up here. So after she told you everything was okay, did
10 she ask you in?

11 A. I don't recall. I don't know. I told her I
12 needed to speak to him, so she went back up in front of
13 me.

14 Q. What kind of condition was Ms. Barron in?

15 A. Actually she was kind of pleasant, I mean,
16 she wasn't ugly. She -- I don't recall her saying
17 anything out of the way.

18 Q. Did she say Tommy, or Taz, was in the
19 bedroom asleep?

20 A. She said he had laid down, and I told her
21 that I needed to speak to him because he was the one
22 that made the call and let me speak to him and make sure
23 everything was all right and I would be gone.

24 He asked, "What in the h-e-l-l was going
25 on?"

1 Q. Before you go any further, did -- how was it
2 that Taz came out of the bedroom? I'm assuming he came
3 out of the bedroom or did you go into the bedroom?

4 A. No, sir. I never left the living room. I
5 was in the living room.

6 Q. You were in the living room?

7 A. Yes, sir.

8 Q. And Ms. Burch, or Ms. Barron, was in the
9 living room?

10 A. (Witness nods head.)

11 Q. How did Mr. Burch --

12 MR. WILLFORD: You're going to need to
13 answer verbally. You shook your head up and down
14 for the last question. We're getting this all on
15 tape so if you would give us answers.

16 A. I'm sorry.

17 Q. Did you call for Mr. Burch to come out of
18 the bedroom?

19 A. No, sir.

20 Q. Or did Ms. Barron do that?

21 A. While she was telling me what happened with
22 the food in the floor, that's when Tommy asked, "What in
23 the h-e-l-l is going on?" Well, I was talking to her
24 and he asked it again, and that's when he come through
25 the hallway.

1 Q. So there was a hallway separating -- the
2 living room, I take it, is where you were?

3 A. The best I remember when you go in, that's
4 the living room, and I believe the kitchen was on the
5 right and the hallway would have been to your left.

6 Q. And how far away was Tommy from you when you
7 first saw him?

8 A. I don't really know. The trailer it ain't
9 -- I don't think it's a real wide trailer, so it
10 wouldn't have been a large space, but I don't -- I
11 wouldn't know how many feet.

12 Q. Did you have any type of weapon drawn --

13 A. No, sir.

14 Q. -- or anything of that nature?

15 A. No, sir.

16 Q. Did she ever ask you to leave?

17 A. No, sir.

18 Q. At any time?

19 A. No, sir.

20 Q. Did you make the statement -- did you scream
21 at Taz to get up out of bed and get in here into the
22 living room?

23 A. No, sir.

24 Q. After you heard Taz say, "What the hell is
25 going on in here," what did you do or say?

1 A. Well, Ms. Barron was still talking so I
2 never acknowledged the first one. He said it again and
3 that's when he came through the hallway and he came into
4 the living room.

5 Q. Okay.

6 A. You want me to continue?

7 Q. Yes.

8 A. Then he asked me what the h-e-l-l am I doing
9 in his house, that I needed to leave his house, this is
10 his d-a-m house and I had no business being there.

11 Q. Did you ask him about the 911 call?

12 A. Yes, sir, I tried to, and Tommy told me if I
13 didn't leave he was going to knock the h-e-l-l out of me
14 and he was going to whop my a-s-s.

15 Q. So it's your testimony that he threatened
16 you?

17 A. Yes, sir.

18 Q. And as a result of that threat you pulled --
19 what is it, mace that you have or pepper spray?

20 A. As a result of his threat?

21 Q. Yes.

22 A. No, sir.

23 Q. Tell me what happened next.

24 A. I asked Tommy to sit down and let's talk
25 about the call he made, and he would not talk. He

1 didn't want to talk to me. He wanted me to leave his
2 house.

3 Q. Did he say everything was okay?

4 A. No, sir. He didn't tell me nothing about
5 the call.

6 Q. Did it appear to you that everything was
7 okay?

8 A. Other than him being irate, I didn't see any
9 marks on Ms. Wilkerson.

10 Q. Did he appear intoxicated?

11 A. Very. I asked him several times, let's talk
12 about -- you know, make sure everything was -- he was
13 very irate. He wouldn't -- he told me again that he was
14 going to whop my a-s-s. And he pointed his finger at me
15 and he told me, "I'll whop your a-s-s if you don't
16 leave." So I reached for Tommy's left arm and I grabbed
17 him by his arm and told him he was under arrest for
18 disorderly conduct. He snatched it away from me and had
19 his arm back, and that's when I sprayed him and then I
20 grabbed his arm.

21 Q. After you sprayed him, did he hit the floor?

22 A. No, sir.

23 Q. Where did you spray him?

24 A. In the face.

25 Q. Was he able to see after that?

1 A. I wouldn't think so, no, sir.

2 Q. When he hit -- let me ask you this: What
3 kind of clothing did he have on when he came out of the
4 bedroom?

5 A. I believe he had some -- a pair of underwear
6 and a t-shirt, if I ain't mistaken, I believe that's
7 what he had on.

8 Q. Was he wearing shoes?

9 A. No. I think he had -- I'm not a hundred
10 percent sure but it seemed like he might have had some
11 socks on but I wouldn't say hundred percent about that.

12 Q. Did he have any kind of weapon in his hand?

13 A. No, sir.

14 Q. At the time of the -- of your statement that
15 me made threats to you to whip your ass, did he have a
16 weapon?

17 A. No, sir.

18 Q. Did he have anything in his hand?

19 A. He had nothing in his hand, no, sir.

20 Q. Did you know at that time he only had use of
21 one arm?

22 A. No, sir. I mean, other than what ability he
23 has now, no, sir, I mean --

24 Q. Did you notice anything else different about
25 him?

1 A. He had a brace of some sort on his right
2 hand.

3 Q. A brace?

4 A. A brace or --

5 Q. Can you describe it other than a brace?

6 A. Just a white brace or it looked like an ace
7 bandage might have been wrapped around the top of it or
8 something.

9 Q. So it's more of an ace bandage?

10 A. Well, I don't know. I didn't take it off
11 and I don't -- it looked to me like a brace made with
12 ace bandages around the back of it or the side of it or
13 something.

14 Q. Did you ask him about it?

15 A. No, sir.

16 Q. So, you sprayed him and he's on the floor.

17 What happened next?

18 A. No, sir, when I sprayed him, he didn't go to
19 the floor. When I sprayed him, I grabbed him back by
20 his left arm and then I tried to pull him down in the
21 floor and -- you want me to show you how he went? He
22 was up on his feet and his hands was down like this and
23 his butt was in the air, and I couldn't get him to give
24 me his hand to handcuff it. Well, I put one handcuff on
25 him and Ms. Wilkerson said, she said, "Please be careful

1 with him. He's hurt his hand." So I said, "Well, stand
2 up, Tommy, and I'll put the handcuffs in front of you."
3 So I got him up and put the handcuffs in front of him,
4 and I asked Ms. Pat to -- if she would go get him some
5 clothes, go get him some pants. So she goes to the
6 bedroom and she's gone for a little bit, and I asked
7 her, I said -- I heard a phone -- I heard the phone
8 dialing, and I asked her, I said, "Will you bring his
9 pants on where we could go?" So she come back in there
10 and she said -- she was talking to his brother Gene, and
11 she said, "Well, Gene, you know how he is. I know he
12 ought not to fight with them, but you can't tell him
13 nothing." I helped her put his pants on, and then I
14 asked her would she go get him some shoes, and she went
15 back and got him some shoes.

16 Q. Did you tell her to hang up the phone? Did
17 you tell her to put down the phone?

18 A. I don't remember that part. I may have told
19 her that she needed to come help me put his clothes on.
20 I may have told her that, but she grabbed one side and I
21 grabbed the other side and we helped him put his pants
22 on. He was sitting in his recliner.

23 Q. Was it after he had his pants on you put the
24 handcuffs on him?

25 A. No, sir.

1 Q. Before?

2 A. Yes, sir.

3 Q. And then I told him we would go, and he
4 stood up and he started walking to the door and then he
5 wouldn't go out the door. I said, "Tommy, come on,
6 let's go now." I had him by his left arm and I was
7 trying to get him out the door. When he started down
8 his steps, he sat on his door steps. And I told him, I
9 said, "Tommy, get up now. Come on, let's go." And I
10 had him by his arm all the way to the car to get him to
11 the car because he didn't want to walk to the car.

12 Q. All right. Now, you got him charged -- I
13 understand he's been charged with two violations; one is
14 public intoxication?

15 A. Yes, sir -- no, sir.

16 Q. Disorderly conduct and resisting arrest?

17 A. Yes, sir.

18 Q. And it's your statement and testimony that
19 both of these occurred within the confines of his home?

20 A. Yes, sir.

21 Q. And it's also your testimony that his wife
22 never told you to leave?

23 A. No, sir. I don't recall that, no, sir. She
24 was actually pleasant. She tried -- she told Tommy, she
25 said, "Tommy, don't fight with him." But I don't ever

1 recall her being ugly at all.

2 Q. So how far is his residence from -- did you
3 take him to Jasper or did you take him to --

4 A. Walker County.

5 Q. You took him to Walker County jail?

6 A. Yes, sir.

7 Q. Here in town?

8 A. Yes, sir.

9 Q. And how far is his residence from here?

10 A. From here to his driveway is 16.1 miles.

11 Q. 16.1 miles?

12 A. Yes, sir.

13 Q. That's pretty accurate. How would you know
14 that it's 16.1 miles as opposed to 16.5 or 15.9 miles?

15 A. I took the mileage down.

16 Q. Okay. Are you required to do that?

17 A. I took the mileage today.

18 Q. You took it today?

19 A. Yes, sir.

20 Q. Why did you take it today?

21 A. At the request of the attorney.

22 Q. Now, once you left his property, his
23 premises -- let me ask you this: What route did you
24 take?

25 A. When I left Tommy's house?

1 Q. Yes, sir.

2 A. We come back out of his house on to
3 Leonard's Chapel Road.

4 Q. What road?

5 A. The road he lives on is Leonard's Chapel
6 Road.

7 Q. Leonard's Chapel?

8 A. Yes, sir.

9 Q. We came to Prospect Road and then went to
10 Cheatham Road. Traveled Cheatham Road to Ripley Road.

11 Q. Ripley?

12 A. Ripley, R-i-p-l-e-y. And to Highway 118,
13 took the Corridor, and then here.

14 Q. Highway 118?

15 A. Yes, sir. That's the old 78 there until you
16 get on the Corridor, and it turns back to 78.

17 Q. All right. Now, was this the same route
18 that you had traveled while in route to Mr. Burch's
19 residence?

20 A. I don't recall that. I wouldn't know that.

21 Q. Where were you when you first got the
22 dispatch?

23 A. I don't have a dispatch sheet where I would
24 -- I don't know. I usually either work -- if there's
25 two of us, I'll work west and south or west and north.

1 And then mainly most of the time I work west side of the
2 county, and that would have been on the west side of the
3 county.

4 Q. But you weren't here in Jasper?

5 A. I don't recall.

6 Q. You don't recall?

7 A. No, sir.

8 Q. Now, is this route that you just described
9 for us, is that route a typical route that you would
10 take from his residence? It doesn't appear to be a
11 straight shot.

12 A. It would be the closest route.

13 Q. This would be the closest?

14 A. That I would think of, yes, sir.

15 Q. And most expeditious route?

16 A. I would think so.

17 Q. What time did you leave the residence? Did
18 you make a call in?

19 A. Yes. I went -- 15-C, 10-84 to the county
20 jail at 2:06.

21 Q. You arrived at 2:06?

22 A. No, sir. I went in route to the county
23 jail --

24 Q. At 2:06?

25 A. Either I was pulling out of his driveway or